

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEY PROPERTIES GROUP, LLC,	§
	§ No. 41, 2009
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
CITY OF MILFORD,	§ in and for Sussex County
	§ C.A. No. 07C-07-023
Plaintiff Below-	§
Appellee.	§

Submitted: April 13, 2009

Decided: April 21, 2009

Before **STEELE**, Chief Justice, **BERGER**, and **JACOBS**, Justices.

ORDER

This 21st day of April 2009, upon consideration of the appellee's motion to dismiss this appeal and its motion to strike portions of the opening brief, as well as the appellant's responses thereto and the appellant's motion for stay of the Superior Court's judgment pending appeal, it appears to the Court that:

(1) The appellant, Key Properties Group, LLC (Key), filed this appeal from a decision of the Superior Court, dated December 31, 2008, which denied Key's motion to dismiss the City of Milford's (Milford) condemnation action and granted Milford's request for an order of

possession. Milford has filed a motion to dismiss Key's appeal on the ground that the appeal was not taken from a final order. We agree.

(2) Section 6112 of Title 10 of the Delaware Code provides that there "shall be a right of review in every condemnation cause from the *final confirmed award of the Superior Court* to the Supreme Court as in the manner provided for review of any other final civil judgment of the Superior Court."¹ At the time Key filed its notice of appeal, the Superior Court had not entered a final confirmed award. Accordingly, the appeal was interlocutory at the time it was filed.

(3) This Court lacks jurisdiction to consider an interlocutory appeal in a civil case, absent compliance with the procedures of Supreme Court Rule 42.² Key acknowledges that there was no attempt to comply with Rule 42 in this case. Accordingly, we have no jurisdiction to allow this appeal, as Key requests, in the absence of compliance with Rule 42.

NOW, THEREFORE, IT IS ORDERED that the within appeal is hereby DISMISSED. The motion to strike and motion to stay are moot.

BY THE COURT:

/s/ Carolyn Berger
Justice

¹ 10 Del. C. § 6112 (1999) (emphasis added).

² *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).